

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
ERROR! NO TEXT OF SPECIFIED STYLE IN DOCUMENT.

KING & SPALDING LLP
Aaron S. Craig State Bar No. 204741
ACraig@kslaw.com
633 W. Fifth Street, Suite 1700
Los Angeles, California 90071
Telephone: (213) 443-4355
Fax: (213) 443-4310

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A Professional Corporation
Shawn M. Ogle State Bar No. 266259
SOgle@aallr.com
12800 Center Court Drive South, Suite 300
Cerritos, California 90703-9364
Telephone: (562) 653-3200
Fax: (562) 653-3333

Attorneys for Plaintiff and Cross-Defendant BOILING
POINT GROUP, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES

BOILING POINT GROUP, INC.,
a California corporation,

Plaintiff,

v.

FONG WARE CO. LTD.,
FONGWARE LLC, FONG WARE
INDUSTRIAL CO., LTD, and
KEN-ZUEI LIU,

Defendants.

Case No. 2:16-cv-01672-RGK-JEM

**PLAINTIFF BOILING POINT
GROUP, INC.'S SHORT
NARRATIVE STATEMENT OF
EXPERT QUALIFICATIONS AND
EXPECTED TESTIMONY**

FONG WARE CO. LTD., a California
corporation,

Cross-Complainant,

v.

BOILING POINT GROUP, INC.,
a California corporation,

Cross-Defendant.

In accordance with the Court's Order for Jury Trial dated September 13, 2016 [Dkt. 54], Plaintiff Boiling Point Group, Inc. ("Plaintiff") hereby submits its short narrative of statements of qualifications and expected expert testimony of the experts that Plaintiff intends to call at trial.

I. Rhonda Harper

A. Short Narrative Statement of Qualifications

Ms. Harper has more than 25 years of consumer marketing experience, with specific interests in consumer research and behavior in retail environments as well as product management. Ms. Harper is the former top marketing executive at Walmart/Sam's Club. She has also held senior marketing positions at VF Corporation, Nabisco, and Warner-Lambert. Ms. Harper has testified at trial on 11 occasions in recent years, including patent, trademark, and trade dress cases. Her expert engagements also include multiple cases involving restaurants. Ms. Harper's professional qualifications are more fully set forth in Exhibit A.

B. Short Narrative Statement of Expected Testimony

Ms. Harper is expected to testify upon the following conclusions: (1) that the Ordinary Observer, in light of the relevant prior art, would conclude that the overall appearance of the Accused Product is substantially the same as the '811 Patent or a colorable imitation of the '811 Patent; (2) that the Ordinary Observer would likely believe that the Accused Product is sold by Plaintiff, or by a company associated or affiliated with Plaintiff; (3) there exists a likelihood that Defendants have been unjustly enriched from the apparent association with Plaintiff and the '811 Patent; (4) the differences between Defendants' alleged prior art, the FW-1243, and the Accused Product and the '811 Patent are substantial, such that an Ordinary Observer would conclude that the design of the Accused Product is closer to the '811 Patent than it is to the FW-1243.

II. Brian Buss

A. Short Narrative Statement of Qualifications

Mr. Buss is a Chartered Financial Analyst with over 20 years of experience in valuations, financial analysis, and corporate finance. Mr. Buss holds a Master's in Business Administration. Mr. Buss has authored and presented numerous articles and presentations on damages analysis in infringement matters. Mr. Buss has also provided expert analysis and testimony in over 20

1 litigation matters. Mr. Buss's professional qualifications are more fully set forth in Exhibit B.

2 **B. Short Narrative Statement of Expected Testimony**

3 Mr. Buss is expected to testify upon Plaintiff's damages under 35 U.S.C. § 289 in the form
4 of the profits Defendants derived from their sales of the infringing FW-1308. Mr. Buss will
5 conclude that (1) Defendants' revenues from the sale of the Accused Product are not less than
6 \$66,800; (2) Defendants' profits from the sale of the Accused Product are not less than \$45,435;
7 and (3) in light of the incomplete information Defendants provided regarding their sales, the
8 amounts may well be substantially in excess of those figures.

9
10
11 Dated: April 26, 2017

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

12
13 By: /s/ SHAWN M. OGLE

Aaron S. Craig

Shawn M. Ogle

14 Attorneys for Plaintiff and Cross-Defendant
15 BOILING POINT GROUP, INC.
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EXHIBIT A

Rhonda Harper Expert Report – March 2017

APPENDIX A – PROFESSIONAL HISTORY

Exhibit 1: Professional History

Exhibit 2: CV

Exhibit 3: Expert Testimony Experience

RHONDA HARPER EXPERT REPORT

EXHIBIT 1: PROFESSIONAL HISTORY

Rhonda J. Harper, M.B.A. | Rhonda Harper LLC | rhonda@rhondaharperllc.com

PROFESSIONAL EXPERIENCE

CEO, Penrose Senior Care Auditors, Dallas, TX – 2013 – *Present*
Rhonda Harper LLC, Dallas, TX - 2010 – *Present*
CEO, RTM&J Management & Marketing Consulting, Atlanta, GA
CMO & VP Marketing, Walmart Sam's Club, Bentonville, AR
CMO & VP Marketing, VF Corporation VFI, Alpharetta, GA
Director / SVP, Ketchum Public Relations, Atlanta, GA and Dallas, TX
Global Director, Marketing Communications, UPS, Atlanta, GA
Marketing Promotion Director, Nabisco Biscuit Division, E. Hanover, NJ

PROFESSIONAL AFFILIATIONS

- American Marketing Association
- Brand Activation Association, Board of Directors
- Public Relations Society of America
- Council of American Survey Research Organizations
- American Association for Public Opinion Research
- Marketing Research Association
- ALFA / Argentum – Assisted Living Federation of America

EDUCATION

- Master of Business Administration (M.B.A.), Emory University, Atlanta, GA, 1988
- Bachelor of Science (B.S.), Education / Math Resource (Math for Teachers), Illinois State University, 1984

OTHER EXPERIENCE

- Adjunct Marketing Professor, American University, Washington DC
- Adjunct Marketing Professor, Fairleigh Dickinson, Madison, NJ
- M.B.A. Case Competition Judge, Emory University, Atlanta, GA
- Board of Directors, Emory University Goizueta Business School Alumni Association
- Keynote Speaker for Corporations, Colleges, and Associations
- Guest Lecturer, Emory University Goizueta Business School
- Co-Founder and Board Member Emerita, Leadership Worth Following, Dallas, TX

Rhonda Harper Expert Report – March 2017

EXHIBIT 2: CV

RHONDA HARPER, MBA
Dallas, Texas

Founder & CEO, Penrose Senior Care Auditors, Dallas, TX 2013-present - Created the Senior Care Auditor service category and career field. Penrose Senior Care Auditors® is the first and only nationwide tech/app-enabled service that provides family oversight of their seniors. Created certification program for independent Penrose Certified Senior Care Auditors. BBB Accredited. AARP Top 10 Innovation Health/Tech Start-Ups 2016. Geriatrics Society of America's Top 15 Innovation Tech for Seniors Start-Ups 2016. North American Finalist, 2016 Cartier Women's Initiative business case competition in partnership with McKinsey & Co., INSEAD, and The Women's Forum.

Owner, Rhonda Harper, LLC, Dallas, TX 2010-Present - Providing expert testimony in 70+ cases across a range of issues: defamation, contract breakage, advertising, consumer confusion, merchandising, product sales losses, brand valuation, licensing, distribution and sale, trademark and patent infringement. Areas of specialization include: Surveys, Research, Digital, Ecommerce, Case Consulting, Expert Report, Rebuttal Testimony, and Expert Testimony. Partial client list: O'Melvary & Meyers; Kirkland & Ellis; Anderson & Anderson; Greenberg Traurig; Akin Gump Strauss Hauer & Feld; Morris Manning & Martin; Munger, Tolles & Olson; Morrison & Foerster.

Global Director, Communications, UPS, Atlanta, GA 2011-2012 - Led global communications team to provide internal and external marketing communications for all business products and services. Created and implemented CRM, SEO/SEM, social, eMail, direct mail, and other integrated campaigns. Successfully launched UPS My Choice, the first B2C initiative and the largest launch in the company's history. Responsible for global agencies.

Director / GM / SVP of Ketchum Public 2005 – 2007 - Led and managed the Atlanta and Dallas offices of 100+ professionals, the second largest P&L globally, which serviced the southern half of the United States. Increased client income 33% while delivering 37% operating margin, up 3 pts over plan. Launched five new practices including Social, Retail, and Energy. Simultaneous to RTM&J experience.

Founder, Owner & CEO, RTM&J LLC, Atlanta, GA 2002 - 2010 - Led the strategic marketing consultancy of up to 15 professionals focused on organic growth strategies for Fortune 1000 corporations. Worked directly with the C-Suite and executive teams on projects ranging \$50k - \$300k and taking 4-12 weeks. Clients included: Arby's, CTCA, The Coca-Cola Company, CSM, Equifax, HSN, IBM, Kellogg's, Russell, Sage Software, SC Johnson, Target, The Home Depot, and Tyson Foods. Also provided Expert Testimony services.

Vice President of Marketing, Sam's Club, Officer, WALMART, Bentonville, AR 2000-2002 - Top marketing officer reporting to the President and CEO. Led team of 75+ to manage national and regional brand, trade, innovation, creative, production, strategic planning, advertising, promotion, public relations, interactive, research / insights, CRM, direct mail, interactive, in-store merchandising and signage for Sam's Club, a \$40 billion division. Managed a ~\$150MM+ advertising, direct mail, email, communications and promotion budget. Responsible for all agencies.

Vice President of Marketing, VFI, Officer, VF CORP, Alpharetta, GA 1998-2000 - Top marketing officer reporting to the President. Led team of 15+ professionals to create and implement brand marketing strategy, licensing, brand, trade, creative, research / insights, innovation, in-store merchandising, communications, direct mail, advertising, promotion, public relations, and interactive for VFI, a \$1.5 billion division of the world's largest apparel manufacturer. Managed a ~\$40MM budget.

RHONDA HARPER EXPERT REPORT

1984 – 1998 - Nabisco Biscuit Promotional Marketing Director. E. Hanover, NJ. Led team of 25+ to create and implement all promotional marketing for \$4 billion Biscuit division. Warner Lambert Promotion Marketing Division Manager. Morris Plains, NJ. Member of the Listerine brand team, a \$300 million business. Subsequently led team of 20+ for all promotional marketing for \$1.5 billion consumer healthcare division. American Red Cross Marketing and Corporate Development Director. Washington DC. Increased blood collections by 22% through geo-demographic emotive lifestyle segmentation and direct marketing. Created diversified revenue stream strategy, raising more than \$400 million annually. High School Math Teacher. Atlanta, GA. Created management and discipline program which was shared system-wide. Created curriculum, increasing the state passage rate among students by 76%. Voted “Teacher of the Year.”

EDUCATION & OTHER

- MBA, Emory University Goizueta Business School, 1988 – Vice-President.
- BS, Education / Math Resource, Illinois State University, 1984
- Co-Founder, Board Member, Leadership Worth Following www.worthyleadership.com
- Board Member, Emory University Goizueta Business School
- Board Member, Promotion Marketing Association
- Adjunct MBA Marketing Professor, American University and Fairleigh Dickinson
- Keynote Speaker: corporations, associations, and organizations
- Authored and published two books
- Board Member, Partnership Against Domestic Violence www.padv.org

Rhonda Harper Expert Report – March 2017

EXHIBIT 3: EXPERT TESTIMONY EXPERIENCE

Rhonda Harper

Expert Testimony

1/25/17

Rhonda Harper Expert Testimony Experience

Firm	Case No.	Case	State	Court	Case Type	Representing	Consulting	Survey	Report	Rebuttal Report	Deposition	Trial
1 Akin Gump Strauss Hauer & Feld	A-10-cv-4184	The Coca-Cola Company and Simply Orange Juice Company v. PEPSICO, Inc., Tropicana Products, Inc., Tropicana Manufacturing Company, Inc., and Quaker Sales & Distribution Inc.	TX	United States District Court Southern District of Texas Houston Division	Trade Dress - Likelihood of Confusion	P	1		1			
2 Albright Law Firm	2:13-cv-683-JRG	TankWorks et al. v. Alpha Tanks & Pump, Inc. et al.	TX	United States District Court for the Eastern District of Texas	Trade Dress - Secondary Meaning	P	1		1			
3 Altman Law Group	2:13-cv-766 JCM/NIX	Russell Road Food and Beverage LLC v. Michael Galam	NV	United States District Court of Nevada Southern Division	Trademark - Likelihood of Confusion	D	1		1			
4 Anderson & Anderson LLP	5:1205110	Arc My Heart, Inc. v. Ga-Ga Jeans Ltd.	FED	United States Patent and Trademark Office Before the Trademark Trial and Appeal Board	Trademark - Likelihood of Confusion	D				1		
5 Asourian & Associates, Inc.		Philippines Food Corporation, Henry Sy, and Elsen Sy v. New Age Global and Glenn Abadir			Breach of Contract - Distribution Performance	P	1					
6 Atkinson, Ardelson, Loyd, Rood & Pomo	2:16-cv-01672	Boiling Point Group, Inc. v. Fong Ware Co. Ltd.	CA	United District Court Central District of California Los Angeles	Patent Design Infringement	P	1		1			
7 Barnes & Thornburg LLC	12201-08	The Mrs. Fields Brand, Inc. v. Int'l Bike Foods LLC	DE	Court of Chancery of the State of Delaware	Breach of Contract - Licensing Performance	D	1		1	1	1	1
8 Benton Law Firm	cc-12-05979-5	Sragusa v. Jeff Arnold, Sock and Accessory Brands Global, Inc.	TX	County Court of Dallas	Breach of Contract - Distribution Performance	P	1		1		1	
9 Brinks Gilson & Lione	ca13-02147-40	Grupo Bimbo and Barcel USA LLC v. Shok-King Corp.	CA	United States District Court for the Central District of California Central Division	Trademark and Trade Dress - Likelihood of Confusion	P			1		1	
10 Bowman Brooke	DC-12-06-5109-4	Daguis Brands, LLC v. SSB Holdings	TX	United States District Court of Dallas County Texas	Trademark - Likelihood of Confusion	P	1		1			
11 Brown Fox Law	11-13758	Meadows v. Abercrombie and Fitch, Inc.	TX	United States District Court of Dallas County Texas 68th Judicial District	Personal Injury - Merchandising	P	1		1		1	
12 Colley Shroyer and Abraham		Bradley v. BG	OH	United States District of Northern Ohio	Personal Injury - Product	P	1				1	
13 Connelly Rose	3:15-cv-01870-B	Townsquare Commerce LLC v. Groupon Inc.	TX	United States District Court for the Northern District of Texas Dallas Division	Trade Dress - Secondary Meaning	P		1	1			
14 Cox Wootton Lerner	NC055887	Harbor Breeze Corporation v. Newport Landing Sportfishing, Inc., Davey's Lecker Sportfishing Inc., and Thor V. Brislin	CA	The Superior Court of California, County of Los Angeles	Misleading Advertising	P	1	1	1		1	1
15 Clark Hill	7:14-cv-1570	CTB, Inc. v. Hog Slat Inc.	NC	United States District Court Eastern District of North Carolina Southern Division	Trade Dress - Likelihood of Confusion and Secondary Meaning	P		3	3		1	

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RHONDA HARPER EXPERT REPORT

Rhonda Harper

Expert Testimony

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	Firm	Case No.	Case	State	Court	Case Type	Representing	Consulting	Survey	Report	Rebuttal Report	Deposition	Trial
16	David Howard Law Firm PC	13-20063-cf-Graham	United States of America v. Lawrence Foster	FL	United States District Court for the Southern District of Florida	Advertising Fraud	D	1		1		1	2
17	Davis Firm	6:16-cv-317	Traxxas, LP v. Kidztech Toys Manufacturing Ltd.	TX	United States District Court for the Eastern Division of Texas Tyler Division	Trademark - Likelihood of Confusion	P	1	1	1			
18	Dawson Parish PC		Cottens Catering v. Cottens	TX	United States District Court Northern District of Texas Dallas Division	Trademark - Likelihood of Confusion	P	1	1		1		
19	Ditthavong & Steiner		Certain Electronic Devices for Containing Strengthened Glass and the Packaging Thereof	FED	United States International Trade Commission	Trademark - Likelihood of Confusion	P	1	2	2	2		
20	Dunlap Bennett & Ludwig	6:16-cv-33	Titius Enterprises, LLC and Zuru Ltd. v. Telebrands Corporation	FED	United States Patent and Trademark Office	Patent Infringement and Dilution	P		3	2	2		1
21	Enviro-Safe Laboratories Internal Council		Enviro-Safe Laboratories, Inc. v. (MMA) Reliable Spending Company			Breach of Contract - Packaging	P	1	1	1			
22	Espinosa Tueba PL	8:15-cv-00890-T-23TGW	Yellowfin Yachts, Inc. v. Barker Boatworks, LLC and Kevin Barker	FL	United States District Court Middle District of Florida Tampa Division	Trade Dress - Likelihood of Confusion and Secondary Meaning	P		1	1	1		
23	Feldman Law Group	14-cv-1750 SAS HP	The Katrol Company, Inc. v. Kati Junction	NY	United States District Court Southern District of New York	Trademark - Likelihood of Confusion	D		1	1		1	
24	Fitzhugh Avalero and Lee	CIV.A. 03-13020-EFH	First Act Inc. v. Brook Mays Music Company, Inc.	MA	United States District Court, D. Massachusetts	Defamation	D	1		1		1	1
25	Foley & Lardner LLP	5-14-cv-02437	Solar Sun Rings, Inc. v. Secard Pools	CA	United States District Court Central District of California Eastern Division Riverside	Trademark and Trade Dress - Likelihood of Confusion	D		2	2			
26	Foster Pepper PLLC	15-cv-1804-MAT	Talking Rain Beverage Company, Inc. v. DS Services of America	WA	United States District Court Western District of Washington at Seattle	Trademark - Likelihood of Confusion	D				1		
27	Foust Partners		Foust, Amazon Tickets Inc. v. Amazon			Trademark - Likelihood of Confusion	P	1		1			
28	Friedman & Felger	3:15-cv-00202-P	Cloudy Collaborations, LLC v. Metro Vapors, LLC	TX	United States District Court Northern District of Texas Dallas Division	Trademark - Likelihood of Confusion	P		1	1			
29	Fritkin Law Firm PLC	cv2012-052272	Supermedia, LLC v. Cool Ace Air, LLC	AZ	Superior Court of the State of Arizona in and for the County of Maricopa	Breach of Contract - Advertising / Damages	D			1		1	
30	Goodrich Anderson Quinn & Staff	92061159	Island Skipper Factory, Ltd. v. The Art Source, Inc. DBA Island Sole, Registrant	FED	United States Patent and Trademark Office Before the Trademark Trial and Appeal Board	Trade Dress - Likelihood of Confusion	P	1					
31	Gray Robinson		RGS Labs v. Sherwin Williams	FL			P				1		
32	Greenberg Traurig LLP	06-7367 MAJ	Rearden LLC, Rearden Productions LLC, Rearden Studios LLC, Rearden Inc. and Rearden Properties LLC v. Rearden Commerce, Inc.	CA	United States District Court Northern District of California San Francisco Division	Trademark - Likelihood of Confusion	D			1		1	
33	Hartline Olaus Barger Dreyer LLP	14-cv-941	Starpower Home Entertainment Systems, Inc. v. Stadlight AV, Inc.	TX	United States District Court Northern District of Texas Dallas Division	Trademark - Likelihood of Confusion	D	1	1	1		1	

Rhonda Harper Expert Report – March 2017

Rhonda Harper

Expert Testimony

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Firm	Case No.	Case	State	Court	Case Type	Representing	Consulting	Survey	Report	Rebuttal Report	Deposition	Trial
34 James H. Horton Law Offices PC	cv-2012-61574-333	Advertising Consulting Services, Inc. d/b/a College Guide Magazine v. The Campus Pages LLC, My Lonestar Pages, Inc. and Kelly Murray individually and d/b/a Murray Creative Solutions of Murray Creative Solutions	TX	District Court 393rd Judicial District of Denton County Texas	Trademark - Likelihood of Confusion	P			1			
35 Kane Russell Coleman & Logan PC		Bar Louis v. Louis Wine Dive	NY		Trademark - Likelihood of Confusion	P		1	1			
36 Kirkland & Ellis LLP	5:06-cv-7367-LHK	Stonefire Grill, Inc. v. FGF Brands, Inc., et al.	CA	United States District Court Northern District of California San Jose Division	Trademark - Likelihood of Confusion	P			1		1	
37 Law Offices of Mark B. Rosen	4:09-cv-00377	Hallmark Cards, Inc. v. Janet L. Murley	MO	United States District Court for the Western District of Missouri	Breach of Contract - Employment	D	1		1			
38 Law Offices of William G. Shaw Jr.	6:09-cv-00171-LED	Utepanels, Ltd. v. Switronik, Inc., Prompter People, Inc. d/b/a Q-Gear, Flolight, LLC and Omega Broadcast Group, LP	TX	United States District Court for the Eastern Division of Texas Tyler Division	Trademark - Likelihood of Confusion	P		1	1		1	
39 Lowe Hauptmann Ham & Berner LLP		New Look Party Ltd of the United Kingdom v. Louis Paris Ltd of New York City and Sears Roebuck	NY	United States District Court Southern District of New York	Trademark - Likelihood of Confusion	P		1	1			
40 Madden & Madden PA	1:12-cv-02999-NHL	Newborn Bros., Co. v. Alphon's Engineering Company	NJ	United States District Court for the District of New Jersey	False Advertising	P	1		1			
41 Mark G. Usdin PA	16-2011-CA-003644	Harris Reis v. Ross Dress For Less, Inc.	FL	Circuit Court Fourth Judicial Circuit, 1st and For Duval County Florida	Personal Injury - Merchandising	P			1		1	1
42 Merchant Law Group	Q.B. No 1907 of 2013	Jason Sandoff and Cindy Retallick v. Loblaw Companies Limited and Loblaw's Inc.	CAN	Court of Queen's Bench for Saskatchewan Judicial Center of Regina	Class Action False Product Advertising	P	1		1			
43 McCauley Westberg & Ramirez PLLC	DC-13-14139	Stewart v. Michael's Stores, Inc.	TX	Judicial District Court Dallas County Texas	Personal Injury - Merchandising	P			1		1	
44 Michael Freund & Associates		Nutritional Supplements	CA				1					
45 Morris Manning & Martin	91185476	Reconnect, Inc. v. Digital Mojo, Inc.	FED	United States Patent and Trademark Office Before the Trademark Trial and Appeal Board	Trademark - Likelihood of Confusion	P		1	1			
46 Morrison & Foerster LLP	37-2003-00394395	Hernandez v. Restoration Hardware, Inc.	CA	Superior Court of California County of San Diego	Class Action - Consumer Privacy and Advertising	D	1		1			
47 Mufin Russ Klejman PC		The Lash Lounge	TX		Unfair Trade Practices	P	1					
48 Munger Tolles & Olsen LLP	3:132-cv-2506-GPC	Juhane, et. v. Ben Bridge NLS Jeweler, Inc.	CA	United States District Court Southern District of California	Class Action - Consumer Privacy and Advertising	D	1					
49 Niro Haller & Niro Ltd.	2:11-cv-05426	Black & Decker Corporation v. Positec USA and RW Direct	IL	United States District Court for the Northern District of Illinois Eastern Division	Trade Dress - Likelihood of Confusion	P	1	1				

RHONDA HARPER EXPERT REPORT

Rhonda Harper

Expert Testimony

3/26/17

Firm	Case No.	Case	State	Court	Case Type	Representing	Consulting	Survey	Report	Rebuttal Report	Deposition	Trial
50 O'Malley & Myers LLP	1425011675	The Moran Stuhlberg and Susan Stuhlberg Revocable Trust, The Stuhlberg Charitable Remainder Unitrust, and Moran Stuhlberg and Susan Stuhlberg as the trustees v. BIK Brands, Inc. and JARDEN Corporation	NY	JAMS Reference Number 1425011675	Breach of Contract - Performance / Commercial Reasonableness	P	1		1		1	1
51 Paul Owens Law Firm	91690003	Orange Bang, Inc. v. Ole Mexican Foods, Inc.	FED	United States Patent and Trademark Office Before the Trademark Trial and Appeal Board	Trademark - Likelihood of Confusion	D	1		1		1	
52 Paul Wilkinson Law Firm LLC	12-cv-1188, Div 409	The Paul Wilkinson Law Firm, LLC and Paul Wilkinson v. Sawaya, Rose, McClure, Wilkie, PC	CO	United States District Court City and County of Denver Colorado	Defamation	P	1		1			
53 Ramirez and Associates PC	1:13-cv-00077-C	Lipham Construction Co. v. Lipham Asphalt and Paving Co.	TX	United States District Court for the Northern District of Texas Abilene Division	Trade Dress - Likelihood of Confusion and Secondary Meaning	P		1	1			
54 Richard Harrison PA Attorneys at Law	8:13-cv-03278-JSM-MAP	One Hour Air Conditioning Franchising LLC d/b/a One Hour Air v. Dallas Unique Indoor, Comfort, Ltd., d/b/a The On Time Experts	FL	United States District Court Middle District of Florida Tampa Division	Trade Dress - Likelihood of Confusion	D		1	1		1	1
55 Romero Park PC	2:13-cv-00544-RSL	Kadia Digo, Inc. v. Smart Circle International, LLC	WA	United States District Court for the Western District of Washington at Seattle	Breach of Contract - Performance	P				1		
56 Shackelford Melton & McKinley	12-07182	Premier Pools, Inc. v. Premier Pools Management Corporation	TX	District Court Dallas County Texas 101st Judicial District	Trademark - Likelihood of Confusion	P		1	1		1	1
57 Sheef & Stone LLP	91/203,077	Pikat LLC v. Evolved Novelties, Inc.	FED	United States Patent and Trademark Office Before the Trademark Trial and Appeal Board	Trademark - Likelihood of Confusion	P	1	1	1			
58 Sheehy Ware & Pappas	2012-70256	Rafael Ortega, Rosara Investments, LLC, LMMH Houston LLC, Ltd., and Soga Investments Ltd. v. Amin Abel, Sameera Ali Aburequab, Mohamad Mustafa, Saeed Abdel Fatah, Syper Bravo, Inc., Bravo Ranch Inc., Abel, Inc., and Bravo Grande, Inc.	TX	United States District Court Harris County Texas 29th Judicial District	Breach of Contract - Performance / Trade Areas	D	1	1			1	1
59 Sloan Matney		Essential Energy Services v. Essential Lighting Solutions	TX	United States District Court Northern District of Texas Dallas Division	Trademark - Likelihood of Confusion	D	1		1			
60 Spangenberg Skibley & Liber LLP**	1:12cv498	Edward W. Tovey v. Nike, Inc. et al.	OH	United States District Court Northern District of Ohio Eastern Division	Trademark (Infringement; Counterfeiting and Fair Use	P	1		1		1	

Rhonda Harper Expert Report -- March 2017

Rhonda Harper

Expert Testimony

1/26/17

Firm	Case No.	Case	State	Court	Case Type	Representing	Consulting	Survey	Report	Rebuttal Report	Deposition	Total
61 Stinson Leonard Street	2:16-cv-00028-JJB-PAC	Texas Roadhouse Inc. v. Texas Corral Restaurants, Inc., Texcor, Inc., Texas Corral Restaurant, Chicago Roadhouse Concepts, LLC and Paul Switzer	TX	United States District Court Northern District of Indiana	Trademark and Trade Dress - Likelihood of Confusion	P	1	2	2			
62 Sullivan & Cromwell LLP	2:10-cv-113-TJH-CE	Mobile Media Ideas LLC v. Research in Motion Limited and Research in Motion Corporation	TX	United States District Court for the Eastern District of Texas Marshall Division	Patent Infringement	P	1		1			
63 Swanson & Bratschen LLC	1:15-cv-02209-JLK	Gib's Distribution, LLC v. Man Stuff, Inc.	CO	United States District Court for the District of Colorado	Trade Dress - Likelihood of Confusion and Secondary Meaning	D	1	1	1			
64 Underwood Perkins	3:13-cv-01474-B	A.G. Corporation v. Sheldon Containers, Inc.	TX	United States District Court Northern District of Texas Dallas Division	Trademark - Likelihood of Confusion and Secondary Meaning	P	1		1			
## Vorys Sater Seymour and Pease LLP***		Hayes v. Big Lots	FL	United States District Court	Personal Injury - Merchandising	D	1					
## Wagner Law	8:15CV22847307BM	Phelan Holdings, Inc. v. Rare Hospitality Management, Inc.	FL	United States District Court Middle District of Florida Tampa Division	Trademark - Likelihood of Confusion	P	1	1	1		1	
## Wagner McLaughlin PA	1:14-cv-01133	Kimberly Batty v. Ruiz Food Products Inc.	CA	United States District Court Eastern District of California	Employment Discrimination	D	1					

P=47 Cases D=21 Cases

* The 2017 Survey was not allowed as evidence, although the two others I generated in this case were allowed. Although the downloaded spreadsheet of the raw results was provided to Defendant Counsel, I had added two rows in order to subtract the control percentages from the result percentages to adjust analysis calculations. Unfortunately, in 2016, I did not copy longer have access to the raw data from the online provider's database. The court disallowed the survey due to failure to preserve data and that it had been manipulated.

** The report in this case was not allowed. A Daubert motion was granted as a survey was recommended to the client but the firm declined. The court stated that a survey should have been completed (based on an opinion based on marketing principles).

*** The court qualified me as a Merchandising Expert. However it was deemed that the case needed a shelf stocking expert (which I am not). Therefore, I did not testify.

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Projects

44	37	60	11	24	11
Consulting	Survey	Report	Rebuttal Report	Deposition	Total

EXHIBIT B

CONFIDENTIAL – ATTORNEYS' EYES ONLY



Exhibit B

Qualifications for Brian Buss

Mr. Buss is a founding principal of Nevium Intellectual Property Solutions. A Chartered Financial Analyst (CFA) with 20 years of experience in valuations, financial analysis and corporate finance both in the US and overseas; Mr. Buss provides licensing strategies for intellectual asset portfolios, guidance in determining economic damages in civil litigation, and performs valuations of trademarks, patents, brand assets, copyrights and other intangible assets.

Expert Witness Experience

Gold Value International Textile, Inc. v. Sanctuary Clothing LLC, Amazon.com, Bloomingdale's, Inc., Dillard's Inc., Macy's, Inc., Nordstrom, Inc., and Zappos IP, Inc.; Expert Report regarding economic damages and profit apportionment in copyright infringement claim; Case 2:16-cv-00339-JAK-FFM; Central District of California; 2017

Blue Gentian LLC and National Express, Inc. v. Tristar Products, Inc. and Wal-Mart Stores, Inc.; Expert Rebuttal Report and Deposition Testimony regarding economic damages in patent infringement claim; Civil Action No. 13-cv-1758 (D.N.J.); District of New Jersey; 2017

EDI International, P.C. v. Crestwood Station Plaza LLC, et. Al.; Expert Report regarding Economic Damages in copyright infringement claim involving architectural design plans; Case No. 15-cv-07281-KBF,USDC, Southern District of New York; 2016

James Ellis as Stockholders Agent for Gablit Holdings, Inc., v. Events.com, Inc.; Expert Report and Arbitration testimony regarding M&A due diligence, unpaid compensation and economic damages; Case No. 01-15-0004-5736, American Arbitration Association; 2016

Solar Sun Rings, Inc., v. Secard Pools et al.; Deposition Testimony and Expert Report regarding economic damages in a Lanham Act Claim; Case No. 5:14-cv-02417, USDC, Central District of California; 2015

Markwins Beauty Supply, Inc. v. Krystal Ball Productions, Inc., et al.; Expert Report in Arbitration proceedings regarding business valuation of Markwins Beauty Supply, Inc.; 2015

Yucaipa Corporate Initiatives Fund vs. Hawaiian Airlines; Expert Consulting regarding value of Airline brands and trademarks and use of trademarks in Internet Search and e-commerce; Case No. CV13-09060, USDC, Central District of California; 2015

Block Developers, LLC et al. v. Commissioner of Internal Revenue; Expert Report and Testimony for US Tax Court regarding reasonable royalty rate for use of patents by potential franchisees and valuation of construction materials patents; Docket No. 3198-10; 2014

Azco Biotech, Inc. v. Intelligent Bio-Systems, Inc.; Expert Report and Deposition Testimony regarding value of molecular diagnostics patents and early-stage businesses; Case No. 12CV2599 BEN DHB, USDC, Southern District of California; 2014

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Amini Innovation Corporation vs. McFerran Home Furnishings, Inc., Expert Report regarding trade dress and copyright infringement damages. Case No. CV13-06496-RSWL(SSx), USDC, Central District of California; 2014

Star Fabrics v. Joyce Leslie, Inc. et al., Expert Report regarding economic impact of fabric design copyright infringement and incremental profits achieved by defendants; United States District Court, Central District of California; 2014

G-Unit Brands, Inc. v. Sleek Audio, Inc.; Expert Report, Deposition Testimony, and Arbitration Hearing Testimony regarding value of celebrity promotional and marketing activities; JAMS Ref. No 1425010166; 2014

Cengage Learning, Inc., et al.; United States Bankruptcy Court Eastern District of New York; Expert Opinion and Rebuttal Opinion regarding valuation of higher education textbook copyrights on behalf of the Second Lien Indenture Trustee in Chapter 11 bankruptcy; 2013-2014

United Fabrics International v. G-III Apparel Group, Ltd. and McKlein Company, LLC; Export Report regarding economic impact of Copyrights. Case No. CV13-00803-SH, United States District Court, Central District of California; 2013

David Wolfe v. Sunfood LLC et al.; Deposition Testimony regarding lost profit damages. Case No. 37-2011-00066729-CU-CTL, Superior Court of the State of California for the County of San Diego; 2013

Syngenta Seeds, Inc. v. Bunge North America, Inc.; Deposition Testimony and Expert Report regarding lost profit damages. Case No 5:11-cv-4074, United States District Court, Northern District of Iowa Western Division; 2012

VolumeCocomo Apparel, Inc. v. Guess?, Inc.; Dillard’s, Inc.; Bloomingdale’s, Inc. and Macy’s, Inc.; Deposition Testimony and Expert Report. Case No CV11-06694-RGK (RZx), United States District Court, Central District of California; 2012

David Dick, et al v. First Citizens Bank and Trust Company, Inc., et al.; Deposition Testimony and Expert Report. Case No. 2011CV201581, Superior Court of Fulton County, State of Georgia; 2012

United Fabrics International, Inc. v. Pat Rego, Inc., Lane Bryant, Inc. et al.; Expert Report. Case No. CV10-5888-PSG (RZx), United States District Court, Central District of California; 2011

L.A. Printex Industries, Inc. v. Macy’s Retail Holdings, Inc., et al.; Expert Report, CV09-3978 DSF (AJWx), United States District Court, Central District of California; 2011

Lilvan Hassaine and Salim Salahi v. Home Depot, U.S.A., Inc. et al.; Expert Report. Case No.09-CV-2215 MMA, United States District Court; 2010

Benjamin Gurfinkel v. Mike Riley, et al.; Deposition Testimony. Case No 37-2008-00079217-CU-PO-CTL, Superior Court of California, County of San Diego, Central Division; 2009

Education and Certification

San Diego State University; MBA; 2011

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Chartered Financial Analyst (CFA); 1997
Claremont McKenna College; Bachelor of Arts, Biology & Economics; 1993

Employment Experience

Neium Intellectual Property Solutions; San Diego CA; 2012 – present
Founding Principal: provide IP valuation, analysis and strategic management services

CONSOR Intellectual Asset Management; San Diego CA; 2011 - 2012
Director: supervised all client engagements for IP valuation and litigation services firm

Brodshatzer, Wallace, Spoon & Yip LLP; San Diego CA; 2007 - 2010
Director: expert witness, litigation services and business valuation consulting

Tech M3, Inc.; San Diego CA; 2006 - 2007
Co-founder and financial officer for a technology start-up

Westpac Institutional Bank; Auckland New Zealand; 2003 – 2005
Commercial and Investment Banking

Deloitte & Touche; Auckland New Zealand and San Francisco CA; 1998 – 2003
Business valuation, purchase price allocation analysis and strategic consulting

Princeton Venture Research; San Diego CA; 1993 – 1997
Shareholder class-action litigation and business valuation consulting

Publications and Presentations

"Brand Valuations: Identifying Opportunities and Challenges" published in The Value Examiner, Special Issue, September/October 2016

"Misuses of IP Over the Internet: Searching for Value" webinar presentation for Business Valuation Resources (BVR), July 2016

"The Use of Analytic Tools for Valuation and Damages Calculations in Internet IP Infringement and Defamation Cases" published as a chapter in The Comprehensive Guide to Lost Profits and Other Commercial Damages book by Business Valuation Resources (BVR), 2016

"Employing Internet and Social Media Analytical Tools in Valuation and Damages Calculations" Featured Presenters at the NACVA and the CTI's 2016 Annual Conference, San Diego, June 2016

"Brand Due Diligence" Tools and Techniques for Supporting Successful Brand Driven Transactions" Luncheon Table Topic at the International Trademark Association (INTA) Annual Meeting, Orlando, FL, May 2016

"Brand Valuation" presentation at the University of New Hampshire School of Law Conference on Brand Valuation, Concord, NH, April 2016

"Valuing IP Using an Apportionment Model" webinar presentation for Business Valuation Resources (BVR), part of BVR's "Special Series on Intellectual Property", October 2015

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"Valuation and Damages Calculations in Cases Involving Internet IP Infringement and Defamation" presented at the NACVA and the CTI's 2015 Annual Conference, June 2015

"Internet Analytic Tools for Brand Valuation, Damages and Defamation" Table Topic discussion at INTA 2015 Annual Meeting, May 2015

"IP Valuation & Damages" panel presentation for Provisors Corporate Deal Professionals of San Diego, January 2015

"How to Calculate Damages for Internet and Social Media Infringement" presented to the 36th Annual Brand Activation Association Marketing Law Conference, November 2014

"Damages and Valuation for Internet IP Infringement and Defamation" presented to Internet Law Leadership Summit, May 2014

"Increase the Value of Your IP Through Licensing" presented to the San Diego Chapter of the Licensing Executives Society, March 2014

"Estimating and Managing the Economic Impact of Brand Disparagement" published in *World Trademark Review*, Issue 47, February 2014

"SFIA Legal Task Force Series: Intellectual Property Litigation & Valuation" presented to the Sports & Fitness Industry Association members, March 2013

"Key Concepts in Intellectual Property Valuation" Continuing Legal Education presentation for San Diego-area Law Firm, March 2013

"Copyright Valuation and Damages" Continuing Legal Education webinar for State Bar of California, Intellectual Property Law Section, March 2013

"Simplicity in Global IP Valuation" with Weston Anson, published in *Les Nouvelles* and *China Intellectual Property*, August 2012

"IP Valuation" continuing legal education seminars presented at multiple law firms, 2011-2012

"Financing Transport and Transport Infrastructure", paper and presentation at the New Zealand Freight Transport Summit, 2004

"Cash Flow Forecasting" presentation to New Zealand Institute of Chartered Accountants, 2002

"Intangible Asset Valuation", presentation to the New Zealand Licensing Executives Society, 2002